

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO, CALIFORNIA

FILED
07 DEC 26 PM 12:05
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RODNEY MARTIN

Plaintiff,

vs.

CASE NO: CV 07-5747

D. ANDREW BYRNE
ET AL

Defendants.

EMERGENCY

MOTION TO STRIKE JOINDER MOTION TO DISMISS

1. Rodney Martin, Pro Se, respectfully moves to strike a pleading seeking to Join the following parties in a purported Motion to Dismiss:

Beverly Kennedy

R.I. Refrigeration Supply Inc.

Ruben Hernandez
2. The Joinder Motion should be struck as it attempts to Join Parties to (2) Pleadings that are defective, as identified in Plaintiff's current pending motion to Strike a purported Motion to Dismiss that names parties not a party to this matter and cancel the Hearing scheduled for the matter.

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3. R.I. Refrigeration Supply has not been served with process in this matter nor has waived service in this matter.
4. The court is also asked to take Judicial Notice that a Certificate of Service for the defective Motion to Dismiss and Memorandum in Support of Motion to Dismiss was not filed with the defective motion and was filed after the fact, which was pointed out in Plaintiff's Motion to Strike said Motion and Memorandum.
5. The Court is also called attention to the fact that no Entry of Appearance has been filed in this case prior to the submittal of Pleadings.
6. Because the Joinder Motion attempts to join parties to a Motion that is inherently defective and that itself must be struck and that one of the parties in the Joinder Motion has not been served with Process nor has waived Service, the Joinder Motion, like the Motion to Dismiss and Memorandum in Support, must be struck, and the Hearing canceled.
7. The Court is requested to instruct counsel for the defendants to enter the requisite Entry of Appearance, Waiver of Service and to consult with Plaintiff in accordance with Local Rules and in accordance with ADA as Plaintiff is handicap and requires additional accommodation.

In consideration of the aforementioned, Plaintiff hereby requests this honorable court grant the relief sought in this pleading.

Respectfully submitted,



12-21-07

Rodney Martin

P.O. Box 1591

El Cerrito, Ca 94530

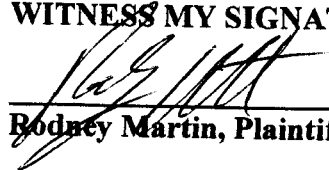
**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
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CERTIFICATE OF SERVICE

I, RODNEY MARTIN, do hereby CERTIFY that a true and correct copy of the foregoing has been furnished to all parties of record as known to me and listed below by U.S. Postal Service, postage prepaid on this the 20th day of December, 2007; and consultation was held or attempted in good faith without resolution.

D ANDREW BYRNE PHILLIPS, NIZER, LLP 666 5 TH AVENUE NEW YORK, NY 10103	ARLO SMITH Matthew Sawyer 66 San Fernando Way San Francisco, Ca 94127
JACKSON MAYNARD JR 605 Suwannee St. Ste.MS58 Tallahassee, Fl 32399	THEODORE WEILL UNIVERSAL WEARPARTS 142 Old Hwy 98 West Tylertown, Ms 39667
JANELLE SKINNER-WEILL WINAN' WICHAPI TO INC. HC 75 Box 222 Merriman, Nebraska 69218	
RUBEN HERNANDEZ 309 Exeter St. Oldsmar, Fl 34667	
BEVERLY KENNEDY 3961 Merrill Rd Dallas, Tx 75229	

WITNESS MY SIGNATURE,


Rodney Martin, Plaintiff Pro Se

12-21-07
Date